

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

-vs-

ALICE CHU,

Defendant.

Criminal No. 19-0678-WJM

**MARK A. BERMAN, ESQ.'S
AFFIRMATION IN SUPPORT
OF DEFENDANT'S MOTION
FOR A SPEEDY TRIAL OR DISMISSAL**

I, MARK A. BERMAN, ESQ., hereby affirms as follows based upon personal knowledge and/or information and belief:

- 1) I am appointed counsel for Defendant Dr. Alice Chu.
- 2) Dr. Chu was indicted on September 24, 2019.
- 3) Early on the morning of September 25, 2019, she was arrested at her home, naked and at gunpoint.
- 4) That same day, she was released on a \$250,000.00 unsecured appearance bond with her travel restricted to the continental United States.
- 5) On October 1, 2019, Dr. Chu was arraigned and entered a plea of "not guilty."
- 6) On October 22, 2019, the Court entered an Order to Continue, excluding the period between October 22, 2019 to March 12, 2020 for purposes of the Speedy Trial Act, with the consent of the parties.
- 7) On March 5, 2020, the Court held a status conference and scheduled trial for February 22, 2021.
- 8) On March 18, 2020, the government informed the Court of its expectation that "its case-in-chief will require approximately between five to eight days to present to the jury."

9) On March 25, 2020, Dr. Chu's retained attorneys were granted leave to withdraw from her representation.

10) On June 3, 2020, the Court appointed undersigned counsel to represent Dr. Chu under the Criminal Justice Act of 1964, based upon her indigency.

11) On June 23, 2020, the Court entered an Order to Continue, excluding the period between March 12, 2020 and February 22, 2021, for purposes of the Speedy Trial Act, with the consent of the parties.

12) Between March 16, 2020 and the present, Chief Judge Wolfson has entered "COVID-19 Orders to Continue" – on 3/16/2020, 4/20/2020, 5/28/2020, 8/20/2020, 9/23/2020 and 12/20/2020 – excluding the period between March 16, 2020 to March 12, 2021 for purposes of the Speedy Trial Act.

13) As a condition of her pretrial release, Defendant's travel is restricted to the continental United States.

14) Counsel has twice moved the Court to modify the terms of Defendant's pretrial release to allow her – (a) to attend a dedication ceremony in South Korea in honor of her late father, and (b) to visit her brother, who suffered a stroke on or about August 30, 2020, in South Korea – and both applications were denied without explanation.

15) By letter dated October 1, 2019, Holy Name Medical Center terminated Dr. Chu's attending privileges at the hospital.

16) By letter dated March 9, 2020, the State of New Jersey terminated Dr. Chu's participation in the New Jersey Medicaid and related programs, effective September 24, 2019.

17) By letter dated March 13, 2020, Aetna insurance terminated Dr. Chu's participation in its Medicare Advantage and commercial health insurance networks effective December 5, 2019.

18) By letter dated April 23, 2020, Empire BlueCross BlueShield terminated Dr. Chu's participation in its and its affiliates' insurance networks.

19) By letter dated April 30, 2020, United Healthcare terminated Dr. Chu's participation in all of its insurance benefits plans.

20) By letters dated June 19, 2020, June 22, 2020, and November 24, 2020, Dr. Chu was informed by the New York State Department of Health that her participation in the New York State Medicaid and Managed Medicaid Programs has been terminated.

21) By letter dated July 10, 2020, Dr. Chu was informed by the Centers for Medicare & Medicaid Services ("CMS") that her Medicare privileges are terminated as of that same date.

22) By letter dated October 21, 2020, Dr. Chu was informed by Amerigroup that her participation in Amerigroup New Jersey's Community Care insurance program was terminated.

23) As a result, Dr. Chu's medical practice has been shut down, she is unable to earn a living as a medical doctor, and she has become destitute.

24) On August 4, 2020, Dr. Chu was forced to sell the professional building she owned in Fort Lee, New Jersey. All of the proceeds of the sale, after satisfaction of the mortgage, were seized by Dr. Chu's husband, who had placed a lien on the property during the pendency of their divorce proceedings.

25) Foreclosure proceedings have been commenced against the commercial property Dr. Chu owns at 889 Allwood Avenue, Clifton, New Jersey. As of January 1, 2021, the delinquent amount owed is \$108,363.71, and the balance due on the mortgage is \$1,131,717.11. Dr. Chu has no way to pay either amount.

26) Dr. Chu owes over \$100,000 in legal fees to Albert Birchwale and Steve Pellino (Basile Birchwale & Pellino, LLP) and Edward Kiel (Cole Schotz PC).

27) By letter dated October 8, 2020, Johnson & Johnson informed Dr. Chu, through its attorneys, Patterson Belknap Webb & Tyler, that it was seeking to collect \$164,1122.40 plus interest in moneys owed for medications purchased by Dr. Chu but which she was unable to prescribe for the reasons set forth above, and which remain at her offices, slowly expiring.

28) By letter dated December 22, 2020, Curascrits informed Dr. Chu, through its attorneys, Heitner & Breitstein PC, that it was seeking to collect \$13,00.00 owed for medications purchased by Dr. Chu but which she was unable to prescribe for the reasons set forth above, and which remain at her offices, slowly expiring.

29) As a result of Dr. Chu's financial challenges, her sons have sold or are in the process of selling their own apartments to assist her.

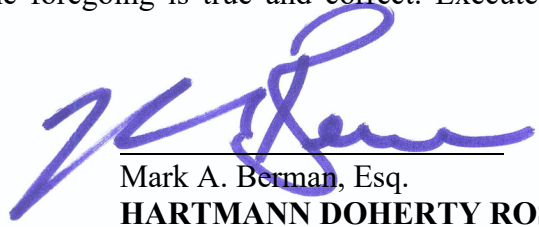
30) Since her arrest, Dr. Chu has plunged into a deep depression and has had suicidal ideations. As a result, she presently is under the care of a psychiatrist, Dr. Christopher Richards, and is prescribed mood stabilizers and anti-depressant medication.

31) Last summer, Dr. Chu had a cardiology evaluation by Dr. Atul Prakash due to chest discomfort and shortness of breath. The evaluation showed that Dr. Chu had suffered a heart attack age indeterminate. Dr. Prakash's opinion is that the condition is the result of the immense stress. Dr. Chu is prescribed three blood pressure medications, but her blood pressure still is not under control.

32) Dr. Chu also has experienced skin disorders like extreme rosacea that her dermatologist, Dr. Hyun-Soo Lee, attributes to inflammation caused by stress.

33) In light of all of the circumstances set forth above, Dr. Chu desperately needs this criminal case to be resolved by a jury immediately.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
January 20, 2021.



Mark A. Berman, Esq.

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